

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
GEORGE PASCHALIS MANNOURIS,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ANALISA TORRES, District Judge:

USDC SDNY
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ORDER

Before the Court is the Report and Recommendation (“R&R”) of the Honorable Barbara Moses, recommending an award of \$14,000 to Plaintiff’s attorney, representing approximately 14% of the past-due benefits payable to Plaintiff by the Social Security Administration (“SSA”) after remand in this action. ECF No. 30.

After being denied disability benefits by the SSA, Plaintiff filed this action on November 20, 2020. ECF No. 1. On September 13, 2021, before any motions were filed or briefs submitted, the Commissioner of Social Security advised Judge Moses that the parties were in discussions to “determine if the Commissioner is able to agree to stipulate to remand this action for further administrative proceedings.” ECF No. 16. Less than two weeks later, the parties stipulated to remand the action. ECF No. 18. On November 9, 2021, Judge Moses so-ordered the parties’ stipulation awarding \$1,600.96 in fees and reimbursement of the \$400 filing fee. ECF No. 23.

On remand, Plaintiff was found disabled. *See* Binder Aff. ¶ 5, ECF No. 24-4. On August 5, 2023, the SSA notified Plaintiff that he was entitled to monthly disability payments “beginning October 2016.”¹ ECF No. 24-5.

Plaintiff now moves for attorneys’ fees pursuant to 42 U.S.C. § 406(b). Under the Retainer Agreement between Plaintiff and his counsel, the Law Office of Charles E. Binder and Harry J. Binder, LLP (“B&B”), if the court reviewing the Commissioner’s decision remanded Plaintiff’s case (which it did), and if, on remand, Plaintiff secured an award of past-due benefits (which he did), B&B was entitled to apply for fees under up to 25% of any past-due benefits. *See* ECF No. 24-5 ¶ 3. Because Plaintiff secured a remand by stipulation, B&B seeks an award of approximately 14% of Plaintiff’s past due benefits, from which B&B will remit to Plaintiff the \$1,600.96 that the Court previously awarded the firm under the Equal Access to Justice Act, 28 U.S.C. § 2412. *See* ECF Nos. 23, 24; Binder Aff. ¶ 12. The Commissioner does not object to Plaintiff’s motion. ECF No. 29.

¹ The SSA’s letter did not state the amount of past-due benefits, but noted that the agency had withheld \$24,873.25. *Id.* Because the agency’s practice is to withhold 25% of a recipient’s benefits, the Court determines that Plaintiff’s past-due benefits totaled \$99,493. *See Sinkler v. Berryhill*, 932 F.3d 83, 86 n.4 (2d Cir. 2019); R&R at 2 n.1.

After careful consideration, Judge Moses issued the R&R, proposing that the Court grant the fee motion. R&R at 7. Despite notification of the right to object to the R&R, no objections were filed, and the time to do so has passed. *Id.* at 8. Accordingly, the Court reviews the R&R for clear error. *See Whitley v. Bowden*, No. 17 Civ. 3564, 2019 WL 1953941, at *1 (S.D.N.Y. May 1, 2019). The Court finds no clear error and ADOPTS Judge Moses's R&R in its entirety. The Clerk of Court is directed to terminate the motion at ECF No. 24.

SO ORDERED.

Dated: January 8, 2024
New York, New York



ANALISA TORRES
United States District Judge